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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,862	07/10/2003	Bruce Gregory Warren	895,080-016	1474
42178 7590 08/29/2008 EMULEX DESIGN & MANUFACTURING CORPORATION C/O MORRISON & FOERSTER LLP 555 WEST FIFTH STREET, SUITE 3500 LOS ANGELES, CA 90013				
EXAMINER HALIYUR, VENKATESH N				
ART UNIT 2619		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/616,862

Applicant(s)

WARREN ET AL.

Examiner

VENKATESH HALIYUR

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/20/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 (claim 7 is canceled) is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/20/2008 has been entered.
2. The amendment filed on 06/20/2008 has been fully considered, however the amendments to independent claim 1 necessitated a new ground(s) of rejection in view of Black et al and Høglund et al references. Rejection follows.
3. Claims 1-13 is pending in the application. Claim 7 is canceled.

Double Patenting

4. Claims 1-13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7,382,790.

Although the conflicting claims are not identical, they are not patentably distinct from each other because,

Claim 1: Claims 2,3 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices employing the Fibre Channel Arbitrated Loop protocol including an access fairness algorithm, comprising: a plurality of Fibre Channel Arbitrated Loop ports each including port logic, a route determination apparatus, a connectivity apparatus, and logic implementing predefined loop control criteria to enforce fairness for single and multiple Loop Switch systems in addition to the access fairness algorithm by assigning different access priorities to the ports in accordance with different port types.

Claim 2: Claims 2, 3 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein the fairness logic serves to limit the number of times a connected device opens another device.

Claim 3: Claims 1, 4 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 2, wherein the fairness logic serves to limit the number of times a connected device sequentially opens another device.

Claims 4-6: Claims 3, 4 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, further including a counter to count the number of opens and wherein the counter counts sequential opens and wherein the logic proactively closes a device.

Claim 8: Claims 2, 4 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein when a port is granted a connection due to the receipt of an OPN, it is moved to the bottom of the list and the lower priority ports are moved up toward the top of the list.

Claims 9-10: Claims 2,5,6 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein the different access priorities are predefined and wherein the different access priorities include a higher level which wins loop arbitration before the lower levels.

Claims 11-12: Claims 1, 2 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 9 wherein the predefined access priorities are separate from the Fibre Channel Arbitrated Loop address priorities and wherein fairness is enforced in a string cascade architecture.

Claim 13: Claims 1-3 of U.S. Patent No. 7,382,790 disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 12 wherein the fairness is enforced in part where a device wins an arbitration when an ARB has traveled between the switch and the interconnected switches on the string.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al. (US 6614796 B1) in view of Hoglund et al (US Pat: 6,747,984).

Regarding claim 1, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices (Fig: 2 @ N1, N2) employing the Fibre Channel Arbitrated Loop protocol (FCAL protocol, col: 3, lines: 15-20) comprising: a plurality of Fibre Channel Arbitrated Loop Ports (Fig: 4 @ 108, 110) each including port logic (col: 26, lines: 1-2 and fig: 7 @ 218, 220), a route determination apparatus (Fig: 5 @ 136), a connectivity apparatus (Fig: 4 @ 102, 104 half bridges, col: 14, line: 111-14), and logic implementing predefined loop control criteria to enforce fairness for single and multiple loop switching systems (Fig 2, col: 10, lines 3-7, col: 13, lines 16-20, Fig 17 A/B, col: 26, lines 14-20) in addition to the access fairness algorithm (all ports can access fairness token because fairness token circulates to all ports on the switch enabling a "round robin" fairness algorithm, Fig 2, col: 7, lines 35-40, col: 8, lines 33-41, col: 17, lines: 28-35) but fails to disclose assigning different access priorities to the ports in accordance with different port types. However, Hoglund et al disclosed a method for assigning different access priorities for different ports for the data associated with each port function for a fibre channel system (col 3, lines 33-42, Fig 1, col 7, lines 32-38, Fig 6). Therefore it would have been obvious for one of the ordinary skill in the art at the time the invention was made to use the method of assigning different access priorities for different ports for the data associated with each port as taught by Hoglund et al in the system of Black et al. to include access fairness algorithm for single and multiple loop

switch system by assigning different access priorities to the ports in accordance with different port types. One is motivated as such in order to provide improved fibre channel arbitrated loop to intelligently transfer data and manage port queues.

Regarding claim 2, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein the fairness logic serves to limit the number of times a connected device opens another device (fairness token enable bit controls to activate token, col: 38, lines: 18-26; and fairness token position counter, col: 38, lines: 33-39).

Regarding claim 3, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 2, additionally the fairness logic serves to limit the number of times a connected device sequentially opens another device (Each Port's status information about availability or busy status is saved in a local copy of scoreboard table 125 in memory, col: 14, lines: 34-35; and scoreboard controls the denial or acceptance based on scoreboard table, col: 35, lines: 21-24).

Regarding claims 4-5, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, further including a counter to count the number of opens (col: 44, lines: 34-36) and the counter counts sequential opens (col: 44, lines: 46-48).

Regarding claim 6, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein the logic proactively closes a device (when "CLS" primitive is sent, the conversation ends or closes, col: 4, lines: 10-

12; and Upon receipt of "CLS" primitive for closing, source port drops the connection, col: 23, lines: 16).

Regarding claim 8, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein when a port is granted a connection due to the receipt of an OPN, it is moved to the bottom of the list and the lower priority ports are moved up toward the top of the list (when OPN received by a port, its priority changes to "High Priority status" no matter how busy it is, col: 7, lines: 39-44).

Regarding claim 9, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein different access priorities are predefined (Fairness Token circulating to all the ports, col: 7, Each port has priority assigned, lines: 35-46, and col: 17, lines: 33-35).

Regarding claim 10, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 9 wherein the different access priorities include a higher level which wins loop arbitration before the lower levels (Each port has priority assigned, col 7, lines: 35-46, col: 9, lines: 6- 8).

Regarding claim 12, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 1, wherein fairness is enforced in a string cascade (connecting o/p of a device to i/p of another device) architecture (Fig: 9 @ 255, 257; in switch mode, loop switches are connected together as shown with the state machine-LPSM).

Regarding claim 13, Black et al. disclosed a system for interconnecting Fibre Channel Arbitrated Loop Devices of claim 12 wherein the fairness is enforced in part where a device wins an arbitration when an ARB has traveled between the switch and the interconnected switches on the string (Fig: 9 and col: 41, lines: 36-37).

Response to Arguments

7. Applicant's arguments, see remarks, filed on 06/20/2008, with respect to the rejection(s) of claim(s) 1-13 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Black et al and Hoglund et al references.

Allowable Subject Matter

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach and render obvious the feature for interconnecting Fibre Channel Arbitrated Loop Devices, wherein the predefined access priorities are separate from the Fibre Channel Arbitrated Loop address priorities.

Conclusion

9. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616. The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached @ (571)-272-7884. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

/Venkatesh Haliyur/

Examiner, Art Unit 2619

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2619